

AMENDED IN ASSEMBLY JANUARY 4, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1033

Introduced by Assembly Member Eduardo Garcia

February 26, 2015

An act to amend Section 63010 of, and to add Chapter 7 (commencing with Section 63090) to Division 1 of Title 6.7 of, the Government Code, relating to state government: 11346.3 of the Government Code, relating to state agency regulations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1033, as amended, Eduardo Garcia. ~~Infrastructure financing. Economic impact analysis: small business definition.~~

Existing law, the Administrative Procedure Act, governs, among other things, the procedures for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law. Existing law requires a state agency proposing to adopt, amend, or repeal specific administrative regulations to assess the potential for adverse economic impact on California business enterprises and individuals and to prepare an economic impact analysis, as specified, that addresses, among other things, the creation or elimination of jobs within the state.

This bill would authorize a state agency, when preparing the economic impact analysis, to use a consolidated definition of small business to determine the number of small businesses within the economy, a specific industry sector, or geographic region, and would define "small business" for that purpose as a business that is independently owned and operated, not dominant in its field of operation, and has fewer than 100 employees.

The Bergeson-Peace Infrastructure and Economic Development Bank Act establishes the California Infrastructure and Economic Development Bank, within the Governor's Office of Business and Economic Development, to be governed by a specified board of directors. The act makes findings and declarations, provides definitions, and authorizes the board to take various actions in connection with the bank, including the issuance of bonds, as specified.

This bill, among other things, would revise the definition of economic development facilities to include facilities that are used to provide goods movement and would define goods movement-related infrastructure. The bill would revise the definition of port facilities to specifically reference airports, landports, waterports, and railports, and would expand the definition of a participating party to include an international governmental entity.

This bill would also enact the California Economic Development Infrastructure Act of 2015 to create the California Infrastructure Finance Center to administer the act, as specified, under the oversight of the bank. This bill would authorize the designation of corporations as a California Infrastructure Development Partner, as specified, and would establish requirements for those corporations to secure participation rights, as defined, as part of forming public-private partnerships with the bank in building infrastructure related to economic-related activities. This bill would prove that participation rights include, but are not limited to, a commitment by the state to use the corporation to deliver infrastructure projects and the right to compete for public-private partnership projects, also known as P3 projects. This bill would exempt contracts entered into between the bank and the corporations awarded participation rights under this act from specified public contracting requirements. This bill would authorize the bank to charge a fee related to the cost of designating and overseeing the act, and to borrow from other resources of the bank or the state, if approved by the Legislature, to pay for operational expenses of the first 2 years of the act, as provided. This bill would establish the Infrastructure Development Account in an unspecified fund to accept fees charged by the bank.

Vote: majority. Appropriation: no. Fiscal committee: *yes-no*. State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 11346.3 of the Government Code is*
2 *amended to read:*

3 11346.3. (a) A state agency proposing to adopt, amend, or
4 repeal any administrative regulation shall assess the potential for
5 adverse economic impact on California business enterprises and
6 individuals, avoiding the imposition of unnecessary or unreasonable
7 regulations or reporting, recordkeeping, or compliance
8 requirements. For purposes of this subdivision, assessing the
9 potential for adverse economic impact shall require agencies, when
10 proposing to adopt, amend, or repeal a regulation, to adhere to the
11 following requirements, to the extent that these requirements do
12 not conflict with other state or federal laws:

13 (1) The proposed adoption, amendment, or repeal of a regulation
14 shall be based on adequate information concerning the need for,
15 and consequences of, proposed governmental action.

16 (2) The state agency, prior to submitting a proposal to adopt,
17 amend, or repeal a regulation to the office, shall consider the
18 proposal's impact on business, with consideration of industries
19 affected including the ability of California businesses to compete
20 with businesses in other states. For purposes of evaluating the
21 impact on the ability of California businesses to compete with
22 businesses in other states, an agency shall consider, but not be
23 limited to, information supplied by interested parties.

24 (3) An economic impact assessment prepared pursuant to this
25 subdivision for a proposed regulation that is not a major regulation
26 or that is a major regulation proposed prior to November 1, 2013,
27 shall be prepared in accordance with subdivision (b), and shall be
28 included in the initial statement of reasons as required by Section
29 11346.2. An economic assessment prepared pursuant to this
30 subdivision for a major regulation proposed on or after November
31 1, 2013, shall be prepared in accordance with subdivision (c), and
32 shall be included in the initial statement of reasons as required by
33 Section 11346.2.

34 (b) (1) A state agency proposing to adopt, amend, or repeal a
35 regulation that is not a major regulation or that is a major regulation
36 proposed prior to November 1, 2013, shall prepare an economic
37 impact assessment that assesses whether and to what extent it will
38 affect the following:

1 (A) The creation or elimination of jobs within the state.

2 (B) The creation of new businesses or the elimination of existing
3 businesses within the state.

4 (C) The expansion of businesses currently doing business within
5 the state.

6 (D) The benefits of the regulation to the health and welfare of
7 California residents, worker safety, and the state's environment.

8 (2) This subdivision does not apply to the University of
9 California, the Hastings College of the Law, or the Fair Political
10 Practices Commission.

11 (3) Information required from a state agency for the purpose of
12 completing the assessment may come from existing state
13 publications.

14 (4) (A) *For purposes of conducting the economic impact*
15 *analysis pursuant to this subdivision, a state agency may use the*
16 *consolidated definition of small business in subparagraph (B) in*
17 *order to determine the number of small businesses within the*
18 *economy, a specific industry sector, or geographic region. The*
19 *state agency shall clearly identify the use of the consolidated small*
20 *business definition in its rulemaking package.*

21 (B) *For the exclusive purpose of undertaking the economic*
22 *impact analysis in a manner described by the Department of*
23 *Finance pursuant to Section 11346.36, a "small business" means*
24 *a business that is all of the following:*

25 (i) *Independently owned and operated.*

26 (ii) *Not dominant in its field of operation.*

27 (iii) *Has fewer than 100 employees.*

28 (c) (1) Each state agency proposing to adopt, amend, or repeal
29 a major regulation on or after November 1, 2013, shall prepare a
30 standardized regulatory impact analysis in the manner prescribed
31 by the Department of Finance pursuant to Section 11346.36. The
32 standardized regulatory impact analysis shall address all of the
33 following:

34 (A) The creation or elimination of jobs within the state.

35 (B) The creation of new businesses or the elimination of existing
36 businesses within the state.

37 (C) The competitive advantages or disadvantages for businesses
38 currently doing business within the state.

39 (D) The increase or decrease of investment in the state.

1 (E) The incentives for innovation in products, materials, or
2 processes.

3 (F) The benefits of the regulations, including, but not limited
4 to, benefits to the health, safety, and welfare of California residents,
5 worker safety, and the state's environment and quality of life,
6 among any other benefits identified by the agency.

7 (2) This subdivision shall not apply to the University of
8 California, the Hastings College of the Law, or the Fair Political
9 Practices Commission.

10 (3) Information required from state agencies for the purpose of
11 completing the analysis may be derived from existing state, federal,
12 or academic publications.

13 (d) Any administrative regulation adopted on or after January
14 1, 1993, that requires a report shall not apply to businesses, unless
15 the state agency adopting the regulation makes a finding that it is
16 necessary for the health, safety, or welfare of the people of the
17 state that the regulation apply to businesses.

18 (e) Analyses conducted pursuant to this section are intended to
19 provide agencies and the public with tools to determine whether
20 the regulatory proposal is an efficient and effective means of
21 implementing the policy decisions enacted in statute or by other
22 provisions of law in the least burdensome manner. Regulatory
23 impact analyses shall inform the agencies and the public of the
24 economic consequences of regulatory choices, not reassess
25 statutory policy. The baseline for the regulatory analysis shall be
26 the most cost-effective set of regulatory measures that are equally
27 effective in achieving the purpose of the regulation in a manner
28 that ensures full compliance with the authorizing statute or other
29 law being implemented or made specific by the proposed
30 regulation.

31 (f) Each state agency proposing to adopt, amend, or repeal a
32 major regulation on or after November 1, 2013, and that has
33 prepared a standardized regulatory impact analysis pursuant to
34 subdivision (c), shall submit that analysis to the Department of
35 Finance upon completion. The department shall comment, within
36 30 days of receiving that analysis, on the extent to which the
37 analysis adheres to the regulations adopted pursuant to Section
38 11346.36. Upon receiving the comments from the department, the
39 agency may update its analysis to reflect any comments received
40 from the department and shall summarize the comments and the

1 response of the agency along with a statement of the results of the
2 updated analysis for the statement required by paragraph (10) of
3 subdivision (a) of Section 11346.5.

4 ~~SECTION 1. (a) The Legislature finds and declares that~~
5 ~~engaging the private sector in building infrastructure related to~~
6 ~~economic-related activities will further the opportunities of~~
7 ~~California businesses and workers.~~

8 ~~(b) Without a modern infrastructure network comprised of roads,~~
9 ~~highways, railroads, and airports, landports, and seaports,~~
10 ~~California will be unable to remain sufficiently connected to the~~
11 ~~global economy.~~

12 ~~(c) Finding appropriate means for partnering with private sector~~
13 ~~infrastructure developers must be undertaken in a thoughtful way~~
14 ~~that ensures workers, residents, and small businesses are not~~
15 ~~negatively impacted or result in an unreasonable ability to~~
16 ~~participate in the broader economy.~~

17 ~~SEC. 2. Section 63010 of the Government Code is amended~~
18 ~~to read:~~

19 ~~63010. For purposes of this division, the following words and~~
20 ~~terms shall have the following meanings unless the context clearly~~
21 ~~indicates or requires another or different meaning or intent:~~

22 ~~(a) “Act” means the Bergeson-Peace Infrastructure and~~
23 ~~Economic Development Bank Act.~~

24 ~~(b) “Bank” means the California Infrastructure and Economic~~
25 ~~Development Bank.~~

26 ~~(c) “Board” or “bank board” means the Board of Directors of~~
27 ~~the California Infrastructure and Economic Development Bank.~~

28 ~~(d) “Bond purchase agreement” means a contractual agreement~~
29 ~~executed between the bank and a sponsor, or a special purpose~~
30 ~~trust authorized by the bank or a sponsor, or both, whereby the~~
31 ~~bank or special purpose trust authorized by the bank agrees to~~
32 ~~purchase bonds of the sponsor for retention or sale.~~

33 ~~(e) “Bonds” means bonds, including structured, senior, and~~
34 ~~subordinated bonds or other securities; loans; notes, including~~
35 ~~bond, revenue, tax, or grant anticipation notes; commercial paper;~~
36 ~~floating rate and variable maturity securities; and any other~~
37 ~~evidences of indebtedness or ownership, including certificates of~~
38 ~~participation or beneficial interest, asset backed certificates, or~~
39 ~~lease-purchase or installment purchase agreements, whether taxable~~

1 or excludable from gross income for federal income taxation
2 purposes.

3 (f) “Cost,” as applied to a project or portion thereof financed
4 under this division, means all or any part of the cost of construction,
5 renovation, and acquisition of all lands, structures, real or personal
6 property, rights, rights-of-way, franchises, licenses, easements,
7 and interests acquired or used for a project; the cost of demolishing
8 or removing any buildings or structures on land so acquired;
9 including the cost of acquiring any lands to which the buildings
10 or structures may be moved; the cost of all machinery, equipment,
11 and financing charges; interest prior to, during, and for a period
12 after completion of construction, renovation, or acquisition, as
13 determined by the bank; provisions for working capital; reserves
14 for principal and interest and for extensions, enlargements,
15 additions, replacements, renovations, and improvements; and the
16 cost of architectural, engineering, financial and legal services;
17 plans, specifications, estimates, administrative expenses, and other
18 expenses necessary or incidental to determining the feasibility of
19 any project or incidental to the construction, acquisition, or
20 financing of any project, and transition costs in the case of an
21 electrical corporation.

22 (g) “Economic development facilities” means real and personal
23 property, structures, buildings, equipment, and supporting
24 components thereof that are used to provide industrial, recreational,
25 research, commercial, utility, goods movement, or service
26 enterprise facilities, community, educational, cultural, or social
27 welfare facilities and any parts or combinations thereof, and all
28 facilities or infrastructure necessary or desirable in connection
29 therewith, including provision for working capital, but shall not
30 include any housing.

31 (h) “Electrical corporation” has the meaning set forth in Section
32 218 of the Public Utilities Code.

33 (i) “Executive director” means the Executive Director of the
34 California Infrastructure and Economic Development Bank
35 appointed pursuant to Section 63021.

36 (j) “Financial assistance” in connection with a project, includes,
37 but is not limited to, any combination of grants, loans, the proceeds
38 of bonds issued by the bank or special purpose trust, insurance,
39 guarantees or other credit enhancements or liquidity facilities, and
40 contributions of money, property, labor, or other things of value,

1 as may be approved by resolution of the board or the sponsor, or
2 both; the purchase or retention of bank bonds, the bonds of a
3 sponsor for their retention or for sale by the bank, or the issuance
4 of bank bonds or the bonds of a special purpose trust used to fund
5 the cost of a project for which a sponsor is directly or indirectly
6 liable, including, but not limited to, bonds, the security for which
7 is provided in whole or in part pursuant to the powers granted by
8 Section 63025; bonds for which the bank has provided a guarantee
9 or enhancement, including, but not limited to, the purchase of the
10 subordinated bonds of the sponsor, the subordinated bonds of a
11 special purpose trust, or the retention of the subordinated bonds
12 of the bank pursuant to Chapter 4 (commencing with Section
13 63060); or any other type of assistance deemed appropriate by the
14 bank or the sponsor, except that no direct loans shall be made to
15 nonpublic entities other than in connection with the issuance of
16 rate reduction bonds pursuant to a financing order or in connection
17 with a financing for an economic development facility.

18 For purposes of this subdivision, “grant” does not include grants
19 made by the bank except when acting as an agent or intermediary
20 for the distribution or packaging of financing available from
21 federal, private, or other public sources.

22 (k) “Financing order” has the meaning set forth in Section 840
23 of the Public Utilities Code.

24 (l) “Guarantee trust fund” means the California Infrastructure
25 Guarantee Trust Fund.

26 (m) “Infrastructure bank fund” means the California
27 Infrastructure and Economic Development Bank Fund.

28 (n) “Loan agreement” means a contractual agreement executed
29 between the bank or a special purpose trust and a sponsor that
30 provides that the bank or special purpose trust will loan funds to
31 the sponsor and that the sponsor will repay the principal and pay
32 the interest and redemption premium, if any, on the loan.

33 (o) “Participating party” means any person, company,
34 corporation, association, state, international, or municipal
35 governmental entity; partnership, firm, or other entity or group of
36 entities, whether organized for profit or not for profit, engaged in
37 business or operations within the state and that applies for financing
38 from the bank in conjunction with a sponsor for the purpose of
39 implementing a project. However, in the case of a project relating
40 to the financing of transition costs or the acquisition of transition

1 property, or both, on the request of an electrical corporation, or in
2 connection with financing for an economic development facility;
3 or for the financing of insurance claims, the participating party
4 shall be deemed to be the same entity as the sponsor for the
5 financing.

6 (p) “Project” means designing, acquiring, planning, permitting,
7 entitling, constructing, improving, extending, restoring, financing,
8 and generally developing public development facilities or economic
9 development facilities within the state or financing transition costs
10 or the acquisition of transition property, or both, upon approval of
11 a financing order by the Public Utilities Commission, as provided
12 in Article 5.5 (commencing with Section 840) of Chapter 4 of Part
13 1 of Division 1 of the Public Utilities Code.

14 (q) “Public development facilities” means real and personal
15 property, structures, conveyances, equipment, thoroughfares,
16 buildings, and supporting components thereof, excluding any
17 housing, that are directly related to providing the following:

18 (1) “City streets” including any street, avenue, boulevard, road,
19 parkway, drive, or other way that is any of the following:

20 (A) An existing municipal roadway.

21 (B) Is shown upon a plat approved pursuant to law and includes
22 the land between the street lines, whether improved or unimproved,
23 and may comprise pavement, bridges, shoulders, gutters, curbs,
24 guardrails, sidewalks, parking areas, benches, fountains, plantings,
25 lighting systems, and other areas within the street lines, as well as
26 equipment and facilities used in the cleaning, grading, clearance,
27 maintenance, and upkeep thereof.

28 (2) “County highways” including any county highway as defined
29 in Section 25 of the Streets and Highways Code, that includes the
30 land between the highway lines, whether improved or unimproved,
31 and may comprise pavement, bridges, shoulders, gutters, curbs,
32 guardrails, sidewalks, parking areas, benches, fountains, plantings,
33 lighting systems, and other areas within the street lines, as well as
34 equipment and facilities used in the cleaning, grading, clearance,
35 maintenance, and upkeep thereof.

36 (3) “Drainage, water supply, and flood control” including, but
37 not limited to, ditches, canals, levees, pumps, dams, conduits,
38 pipes, storm sewers, and dikes necessary to keep or direct water
39 away from people, equipment, buildings, and other protected areas
40 as may be established by lawful authority, as well as the

1 acquisition, improvement, maintenance, and management of
2 floodplain areas and all equipment used in the maintenance and
3 operation of the foregoing.

4 (4) “Educational facilities” including libraries, child care
5 facilities, including, but not limited to, day care facilities, and
6 employment training facilities.

7 (5) “Environmental mitigation measures” including required
8 construction or modification of public infrastructure and purchase
9 and installation of pollution control and noise abatement
10 equipment.

11 (6) “Parks and recreational facilities” including local parks,
12 recreational property and equipment, parkways, and property.

13 (7) “Port facilities” including airports, landports, waterports,
14 railports, docks, harbors, ports of entry, piers, ships, small boat
15 harbors and marinas, and any other facilities, additions, or
16 improvements in connection therewith that transport good or
17 persons.

18 (8) “Power and communications” including facilities for the
19 transmission or distribution of electrical energy, natural gas, and
20 telephone and telecommunications service.

21 (9) “Public transit” including air and rail transport, airports,
22 guideways, vehicles, rights-of-way, passenger stations,
23 maintenance and storage yards, and related structures, including
24 public parking facilities, and equipment used to provide or enhance
25 transportation by bus, rail, ferry, or other conveyance, either
26 publicly or privately owned, that provides to the public general or
27 special service on a regular and continuing basis.

28 (10) “Sewage collection and treatment” including pipes, pumps,
29 and conduits that collect wastewater from residential,
30 manufacturing, and commercial establishments, the equipment,
31 structures, and facilities used in treating wastewater to reduce or
32 eliminate impurities or contaminants, and the facilities used in
33 disposing of, or transporting, remaining sludge, as well as all
34 equipment used in the maintenance and operation of the foregoing.

35 (11) “Solid waste collection and disposal” including vehicles,
36 vehicle-compatible waste receptacles, transfer stations, recycling
37 centers, sanitary landfills, and waste conversion facilities necessary
38 to remove solid waste, except that which is hazardous as defined
39 by law, from its point of origin.

1 ~~(12) “Water treatment and distribution” including facilities in~~
2 ~~which water is purified and otherwise treated to meet residential,~~
3 ~~manufacturing, or commercial purposes and the conduits, pipes,~~
4 ~~and pumps that transport it to places of use.~~

5 ~~(13) “Defense conversion” including, but not limited to, facilities~~
6 ~~necessary for successfully converting military bases consistent~~
7 ~~with an adopted base reuse plan.~~

8 ~~(14) “Public safety facilities” including, but not limited to, police~~
9 ~~stations, fire stations, court buildings, jails, juvenile halls, and~~
10 ~~juvenile detention facilities.~~

11 ~~(15) “State highways” including any state highway as described~~
12 ~~in Chapter 2 (commencing with Section 230) of Division 1 of the~~
13 ~~Streets and Highways Code, and the related components necessary~~
14 ~~for safe operation of the highway.~~

15 ~~(16) (A) “Military infrastructure” including, but not limited to,~~
16 ~~facilities on or near a military installation, that enhance the military~~
17 ~~operations and mission of one or more military installations in this~~
18 ~~state. To be eligible for funding, the project shall be endorsed by~~
19 ~~the Office of Planning and Research.~~

20 ~~(B) For purposes of this subdivision, “military installation”~~
21 ~~means any facility under the jurisdiction of the Department of~~
22 ~~Defense, as defined in paragraph (1) of subsection (c) of Section~~
23 ~~2687 of Title 10 of the United States Code.~~

24 ~~(17) “Goods movement-related infrastructure” including port~~
25 ~~facilities, roads, rail, and other facilities and projects that move~~
26 ~~goods, energy, and information.~~

27 ~~(r) “Rate reduction bonds” has the meaning set forth in Section~~
28 ~~840 of the Public Utilities Code.~~

29 ~~(s) “Revenues” means all receipts, purchase payments, loan~~
30 ~~repayments, lease payments, and all other income or receipts~~
31 ~~derived by the bank or a sponsor from the sale, lease, or other~~
32 ~~financing arrangement undertaken by the bank, a sponsor, or a~~
33 ~~participating party, including, but not limited to, all receipts from~~
34 ~~a bond purchase agreement, and any income or revenue derived~~
35 ~~from the investment of any money in any fund or account of the~~
36 ~~bank or a sponsor and any receipts derived from transition property.~~
37 ~~Revenues shall not include moneys in the General Fund of the~~
38 ~~state.~~

39 ~~(t) “Special purpose trust” means a trust, partnership, limited~~
40 ~~partnership, association, corporation, nonprofit corporation, or~~

1 other entity authorized under the laws of the state to serve as an
2 instrumentality of the state to accomplish public purposes and
3 authorized by the bank to acquire, by purchase or otherwise, for
4 retention or sale, the bonds of a sponsor or of the bank made or
5 entered into pursuant to this division and to issue special purpose
6 trust bonds or other obligations secured by these bonds or other
7 sources of public or private revenues. Special purpose trust also
8 means any entity authorized by the bank to acquire transition
9 property or to issue rate reduction bonds, or both, subject to the
10 approvals by the bank and powers of the bank as are provided by
11 the bank in its resolution authorizing the entity to issue rate
12 reduction bonds.

13 (u) “Sponsor” means any subdivision of the state or local
14 government including departments, agencies, commissions, cities,
15 counties, nonprofit corporations formed on behalf of a sponsor,
16 special districts, assessment districts, and joint powers authorities
17 within the state or any combination of these subdivisions that
18 makes an application to the bank for financial assistance in
19 connection with a project in a manner prescribed by the bank. This
20 definition shall not be construed to require that an applicant have
21 an ownership interest in the project. In addition, an electrical
22 corporation shall be deemed to be the sponsor as well as the
23 participating party for any project relating to the financing of
24 transition costs and the acquisition of transition property on the
25 request of the electrical corporation and any person, company,
26 corporation, partnership, firm, or other entity or group engaged in
27 business or operation within the state that applies for financing of
28 any economic development facility, shall be deemed to be the
29 sponsor as well as the participating party for the project relating
30 to the financing of that economic development facility.

31 (v) “State” means the State of California.

32 (w) “Transition costs” has the meaning set forth in Section 840
33 of the Public Utilities Code.

34 (x) “Transition property” has the meaning set forth in Section
35 840 of the Public Utilities Code.

36 SEC. 3. Chapter 7 (commencing with Section 63090) is added
37 to Division 1 of Title 6.7 of the Government Code, to read:

1 ~~CHAPTER 7. CALIFORNIA ECONOMIC DEVELOPMENT~~
2 ~~INFRASTRUCTURE FINANCE ACT OF 2015~~

3
4 ~~Article 1. Introduction~~
5

6 ~~63090. (a) This chapter shall be known, and may be cited, as~~
7 ~~the California Economic Development Infrastructure Act of 2015.~~

8 ~~(b) Notwithstanding any other provision of this division, this~~
9 ~~chapter shall not apply to any other activities, powers, and duties~~
10 ~~of the bank under any of the other chapters of this division.~~

11 ~~(c) Infrastructure development, enhancement, and modernization~~
12 ~~is fundamental to the continued economic growth of the state. In~~
13 ~~order to be successful in the integrated global economy, California~~
14 ~~businesses and workers must have access to the necessary~~
15 ~~infrastructure. Some of this infrastructure will be financed with~~
16 ~~state moneys, while other infrastructure is more appropriately~~
17 ~~funded privately.~~

18 ~~(d) It is necessary to authorize the bank to serve as a conduit~~
19 ~~financier, project advisor, and a project facilitator for infrastructure~~
20 ~~that supports private economic development activities that provide~~
21 ~~a meaningful benefit to the people of California.~~

22 ~~(e) This chapter shall not supplant any infrastructure contracting~~
23 ~~authority that a government entity has under a different law. A~~
24 ~~state agency, with the approval of the bank board, may avail itself~~
25 ~~of the process authorized by this chapter.~~

26
27 ~~Article 2. Definitions~~
28

29 ~~63091. Unless the context otherwise requires, the definitions~~
30 ~~in this section govern the construction of this chapter. The~~
31 ~~definitions in this chapter shall apply only to this chapter and not~~
32 ~~to any other provision of this division.~~

33 ~~(a) “Bank” means the California Infrastructure and Economic~~
34 ~~Development Bank.~~

35 ~~(b) “Bank board” means the Board of Directors of the California~~
36 ~~Infrastructure and Economic Development Bank.~~

37 ~~(c) “California Infrastructure Development Center” means the~~
38 ~~governmental unit within the bank with the administrative~~
39 ~~responsibility for programs and activities authorized pursuant to~~
40 ~~this chapter.~~

(d) “Corporation” means any business establishment or groups of two or more business establishments that apply for and are designated by the bank as a California Infrastructure Development Partner.

(e) “Directives and requirements” means a document adopted by the bank board setting forth policy direction as well as rules governing a particular subject area.

(f) “Executive director” means the Executive Director of the California Infrastructure and Economic Development Bank.

(g) “Participation rights” means a commitment by the state to use a corporation to deliver infrastructure projects. Participation rights include the right to compete for a public-private partnership project or projects (P3 projects). If the corporation should be chosen to participate, participation rights may include a preestablished minimum participation rate in financing the P3 project or projects.

(h) “Program manager” means the manager of the California Infrastructure Development Center as appointed by the executive director of the bank.

(i) “Spring fed pool” means a list of corporations designated by the bank board as a California Infrastructure Development Partner through a request for information or request for proposal process.

Article 3. Purpose

63092. The bank shall include the California Infrastructure Finance Center that administers the California Economic Development Infrastructure Act of 2015.

Article 4. Administrative Structure

63093. (a) Upon the approval of the board, the bank may award the participation rights to a corporation that meets the criteria in directives and requirements established pursuant to subdivision (f).

(b) (1) A corporation designated for inclusion within the spring fed pool by the board may deliver infrastructure projects that have been determined by statute as appropriate for financing through a public-private partnership.

1 ~~(2) Eligible infrastructure projects include goods movement,~~
2 ~~public transit, solid waste collection and disposal, water treatment~~
3 ~~and distribution, and defense conversion, as defined in Section~~
4 ~~63010.~~

5 ~~(3) The contract awarding the participation rights shall state the~~
6 ~~rights and conditions of the agreement. At a minimum, the~~
7 ~~agreement shall include the right of competition in each and all~~
8 ~~P3 projects the state undertakes during the term of the contract~~
9 ~~relating to the specific type of infrastructure identified in the~~
10 ~~contract. The agreement may include, for projects the corporation~~
11 ~~agrees to participate in, a preestablished minimum participation~~
12 ~~rate in financing each and all P3 projects.~~

13 ~~(4) No agreement shall be for longer than five years.~~

14 ~~(5) The bank may cancel a contract for fraudulent activity and~~
15 ~~poor performance as set forth in the directives and requirements~~
16 ~~adopted pursuant to subdivision (f).~~

17 ~~(e) The award of the participation rights may be reflected as an~~
18 ~~equity investment by the state in either an individual project or the~~
19 ~~corporation.~~

20 ~~(d) The bank may employ consultants and advisers as may be~~
21 ~~necessary in its judgment, in connection with the award of the~~
22 ~~participation rights. Payment for these services shall be reimbursed~~
23 ~~from fees received from an applicant for designation under this~~
24 ~~section.~~

25 ~~(e) The bank may charge a fee to recover the cost of making~~
26 ~~designations and overseeing the act, including, but not limited to,~~
27 ~~the cost of consultants and advisors. Operation costs may be~~
28 ~~recovered from fee revenues upon appropriation by the Legislature~~
29 ~~of the Infrastructure Development Account of the _____ Fund,~~
30 ~~which is hereby established to receive those fee revenues.~~
31 ~~Operation costs for the first two years may be borrowed from other~~
32 ~~resources of the bank or the state, if approved by the Legislature,~~
33 ~~and then repaid once corporations are designated and fees become~~
34 ~~available.~~

35 ~~(f) (1) Section 10295 of the Public Contract Code does not~~
36 ~~apply to agreements entered into by the bank in connection with~~
37 ~~the award of participation rights under this chapter.~~

38 ~~(2) The bank board shall adopt directives and requirements~~
39 ~~concerning the implementation of this chapter. These directives~~
40 ~~and requirements shall include a process for receiving and~~

- 1 reviewing applications and entering into participation rights
2 agreements that meet the requirements of this section.
3 (g) The bank shall annually report on its activities related to the
4 duties and authorities in this section as part of the bank's annual
5 report, as required in Section 63035.
6 63094. The program manager acting under the guidance of the
7 executive director shall do all of the following:
8 (a) Administer this chapter.
9 (b) Enter into participation rights agreements between the bank
10 and a corporation for services to be provided by the corporation
11 to the state under this chapter.
12 (c) Act as a liaison between corporations, other state and federal
13 agencies, lenders, and the Legislature.